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TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
END920000173US1

In Re Application Of: **Robyn R. Levine**

| Application No. | Filing Date | Examiner | Customer No. | Group Art Unit | Confirmation No. |
|-----------------|-------------|---------------|--------------|----------------|------------------|
| 09/761,121 | 01/16/2001 | Yehdega Retta | 26502 | 3622 | 2906 |

Invention: **BUSINESS OFFERING CONTENT DELIVERY**

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on 02/15/2006

The fee for filing this Appeal Brief is: **\$500.00**

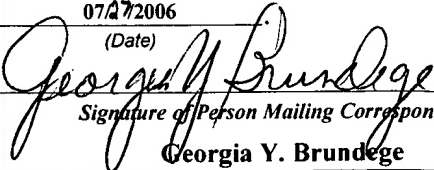
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Dated: **07/25/06**

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| | |
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Docket No.: END920000173US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of: Robyn R. Levine

Group Art Unit: 3622 : IBM Corporation
Examiner: Yehega Retta : Intellectual Property Law
Serial No.: 09/761,121 : Department IQ0A/040-3
Filed: 01/16/2001 : 1701 North Street
Title: BUSINESS OFFERING : Endicott, New York 13760
CONTENT DELIVERY

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Georgia Y. Brundage 7/27/06
Georgia Y. Brundage Date

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDED APPEAL BRIEF

Dear Sir:

Appellant hereby submits an Amended Appeal Brief in response to the Notification of Non-Compliant Appeal Brief of 07/17/2006 in the above-designated case.

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(i) REAL PARTY IN INTEREST

The real party in interest is International Business Machines Corporation, a corporation of New York, with a place of business at Armonk, NY 10504.

(ii) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences with which the undersigned is aware.

(iii) STATUS OF CLAIMS

Claims 1 - 9, 12 - 18, and 20 - 23 are pending in the present application. Claims 1 - 9, 12 - 18, and 20 - 23 have all been finally rejected and are the subject matter of this appeal.

(iv) STATUS OF AMENDMENTS

An amendment after the Final Action of 11/16/2005 was filed 01/16/2006. The Examiner presents reasons why the amendment does not place the application in condition for allowance in an Advisory Action dated 02/06/2006. There is no indication of whether the amendment will or will not be entered for purposes of appeal.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Appellant's invention relates to a unique method, system,
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and computer program product for personalizing content delivery to a user to increase the likelihood of completing a purchase or forming a positive experience.

According to Appellant's independent claim 1, a vision of a supplier's core competencies must be created based on three items (see appellant's specification page 14, lines 12 - 15). The three items are 1) in the moment point of contact constraints as determined in the first step of claim 1 (FIG. 1, step 12, and page 8, line 1 - page 10, line 8). 2) A profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of the user as retrieved in the second step of claim 1 (FIG. 1, step 14, and page 10, line 9 - page 12, line 16). 3) Current actions retrieved in step 3 of claim 1 (FIG. 1, step 16, and page 12, line 17 - page 13, line 7).

Claim 1 further requires that an opportunity be developed which is consistent with the vision. This opportunity must be developed by merging together and optimizing the created vision with the supplier's channel awareness (FIG. 1, step 18, and page 14, lines 12 - 22).

Independent claims 21 - 23 require identical limitations to those of claim 1 just described above.

Appellant's dependent claim 13 further requires that the profiled past of claim 1 include data generated by datamining of navigational and transactional information, or user submitted data, or purchased data, or combinations thereof (page 11,

line 3 - page 12, line 16, and claim 13 as originally filed).

Appellant's dependent claim 17 further requires the current actions of claim 1, include clickstream data which must include page hits, sequence of hits, duration of page views, response to advertisements, transactions, and conversion rate of the opportunity (page 13, lines 1 - 7).

(vi) GROUND OF REJECTION

There are two grounds of rejection.

Claims 1 - 3, 6, 9, 12 - 16, 18, and 20 - 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts (US Patent 6,101,486).

Claims 4, 5, 7, 8, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts in view of Lee (U.S. Patent 6,829,475).

(vii) ARGUMENT

Claim 1 is patentable under 35 U.S.C. 102(e) over Roberts. The Examiner cites Roberts column 5, lines 25 - 40, as teaching step 1 of appellant's claim 1, e.g., determining in the moment point of contact constraints of the user. The Examiner then cites column 5, lines 4 - 25, and column 6, line 60, to column 7, line 16, as teaching the second and third steps of Appellant's claim 1, e.g. retrieving a profiled past of the user, including purchased data which is grouped or keyed to

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which is grouped or keyed to presenting a lifestyle or lifestage view of the user. Indeed, there is no purchased data of any type described or suggested in the cited parts of Roberts. Claim 1 is therefore allowable over Roberts for this reason alone.

In addition, Appellant's claim 1 requires in the fourth step, a vision of a supplier's core competencies be created based on the constraints, profiled past, and current actions recited in the first three steps. Roberts is incapable of creating such a vision because as stated above, Roberts does not describe all of the requirements of the second step on which the vision must be based. Furthermore, an opportunity must be developed consistent with this vision which Roberts is incapable of creating. The opportunity must be developed by merging together and optimizing this vision with this same supplier's channel awareness. Roberts does not describe anywhere in the cited columns 5 - 7, developing this opportunity in this way. Claim 1 is therefore also allowable over Roberts for these reasons.

Appellant's remaining independent claims 21 - 23 recite identical limitations to those of claim 1 and are allowable over Roberts for the same reasons. All of the remaining rejected claims 2 - 3, 6, 9, 12 - 16, 18, and 20 depend directly or indirectly on allowable claim 1 and are therefore also allowable over Roberts.

In addition, Appellant's claim 13 requires the profiled past of the second step of claim 1, include determining of

navigational and transactional information, or user submitted data, or purchased data, or combinations thereof. Roberts column 5, line 65, to column 6, line 13, is cited. However, the cited section of Roberts merely describes a customer service representative (CSR), e.g., a person having a telephone interaction with the customer, using a questionnaire or survey to gather information. The customer may also fill in this information when visiting a website. There is no description of datamining as this term is used in the art, anywhere in the cited portion of Roberts. Hence, Appellant's claim 13 is also allowable over Roberts for this reason.

Regarding the second ground for rejection of claim 4, 5, 7, 8, and 17 under 35 U.S.C. 103(a), this rejection is moot because all of these claims depend directly or indirectly on allowable claim 1 and are therefore also allowable.

Rejection of the pending claims is therefore in error and such rejections must be withdrawn. All of the pending claims are allowable.

In view of the above, Appellant respectfully requests that the Board reverse the Examiner's final rejection of all of the claims on appeal, and allow these claims.

Respectfully submitted,

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By: John R. Pivnichny
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Reg. No. 43,001

(viii) CLAIMS INDEX

1. A method of personalizing content delivery to a user, said method comprising the steps of:

determining in the moment point of contact constraints of said user;

retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

retrieving current actions; and

delivering an opportunity to said user by creating a vision of a supplier's core competencies based on said constraints of said point of contact, said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

2. The method of claim 1, wherein said step of determining in the moment point of contact comprises the step of determining constraints of a current fingertip touchpoint of said user.

3. The method of claim 2, wherein said touchpoint comprises a cell phone, kiosk, personal digital assistant device, laptop computer, terminal, or desktop computer.

4. The method of claim 1, wherein said point of contact constraints includes a location indication.
5. The method of claim 4, wherein said location indication includes global positioning system coordinates.
6. The method of claim 1, wherein said profiled past includes a demographic profile.
7. The method of claim 6, wherein said demographic profile is assumed.
8. The method of claim 7, wherein said demographic profile is assumed based on anonymous demographic data supplied by a third party.
9. The method of claim 6, wherein said demographic profile is layered.
10. (cancelled).
11. (cancelled).
12. The method of claim 1, wherein said baseline parameter is a block or group.
13. The method of claim 1, wherein said profiled past includes data generated by datamining of navigational and transactional information, or user submitted data, or purchased data, or combinations thereof.

14. The method of claim 1, wherein said current actions includes transactions.

15. The method of claim 14, wherein said transactions includes listings of purchases or payments or returns.

16. The method of claim 1, wherein said current actions includes clickstream data.

17. The method of claim 16, wherein said clickstream data includes page hits, sequence of hits, duration of page views, response to advertisements, transactions, and conversion rate of said opportunity.

18. The method of claim 1, wherein the step of said delivering said content comprises the step of sending a personalized web page to said user.

19. (cancelled)

20. The method of claim 1, wherein said content is delivered by converting said point of contact constraints into a take action opportunity.

21. A system for personalizing content delivered to a user, comprising:

means for determining a point of contact device of said user;

means for retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

means for retrieving current actions; and

means for delivering an opportunity to said user by creating a vision of a supplier's core competencies based on said point of contact device and said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

22. A server having a web site for providing personalized content to a user, comprising:

a computer processor having server software installed for processing a web site having content;

means for determining a point of contact device of said user;

means for retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

means for retrieving current actions; and

wherein said server software is adapted for delivering said web site content personalized to said user as an opportunity by creating a vision of a supplier's core competencies based on

said point of contact device and said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

23. A computer program product for instructing a processor to provide a web site accessible by a user having a point of contact device, said computer program product comprising:
means for determining said point of contact device of said user;

means for retrieving a profiled past of said user including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user;

means for retrieving current actions; and

wherein said computer program product is adapted for delivering web site content personalized to said user as an opportunity by creating a vision of a supplier's core competencies based on said point of contact device and said profiled past and said current actions, and developing said opportunity consistent with said vision by merging together and optimizing said vision with said supplier's channel awareness.

(ix) EVIDENCE APPENDIX

None.

(x) RELATED PROCEEDINGS APPENDIX

None.